

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

IN THE MATTER OF

WIRELINE COMPETITION BUREAU  
SEEKS FURTHER COMMENT ON  
ISSUES IN THE RURAL HEALTH CARE  
REFORM PROCEEDING

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) WC Docket No. 13-184  
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To the Commission:

**NOTICE OF EX PARTE COMMUNICATION**

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Dated: November 13, 2013

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

IN THE MATTER OF

MODERNIZING THE E-RATE PROGRAM  
FOR SCHOOLS AND  
LIBRARIES

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To the Commission:

**NOTICE OF EX PARTE COMMUNICATION**

Conterra Ultra Broadband, LLC (“Conterra” or “Company”), pursuant to Section 1.415 (b) of the Federal Communications Commission’s (“FCC” or “Commission”) Rules, 47 C.F.R. § 1.415 (b), hereby respectfully comments on the Commission’s Notice of Proposed Rule Making, released in WC Docket No. 13-184 and July 19, 2013, concerning issues in modernizing the E-rate program for schools and libraries.

## **I. INTRODUCTION AND DISCUSSION**

Conterra is a highly experienced, infrastructure based, telecom services carrier that specializes in the design, deployment and operation of high-bandwidth Ethernet and TDM transport networks in rural areas throughout the United States. During the last decade, Conterra has connected more than two thousand sites in 27 states with high-capacity transport services to cellular communication sites, telemedicine locations and educational facilities. As a result, Conterra is among the largest and most experienced rural broadband transport providers in the U.S. Conterra utilizes its own fiber, FCC-licensed microwave networks and aggregated fiber from smaller providers to reach sites with high-speed Ethernet services, at cost effective rates. Conterra directly or indirectly provides high-speed, wireless backhaul services for the largest U.S. cellular carriers. Conterra's backhaul networks provide carriers with carrier-class Ethernet and TDM circuits to support their rapidly expanding bandwidth needs. Conterra's K-12 broadband networks provide rural school districts with high speed Internet, distance learning, Voice over Internet Protocol telephony and other services necessary to enable a high quality, affordable learning environment. Conterra serves over 1,000 schools and districts across the U.S. providing connectivity to more than one million students, teachers and administrators.

Conterra is in agreement with the majority of the comments filed by LTS Buyer LLC, Unite Private Networks, LLC, and Fibertech Networks, LLC (collectively, the "Joint Commenters") and comments filed by Sunesys LLC and Verizon and Verizon Wireless (hereinafter "Verizon"). Conterra supports the Joint Commenters' positions on multi-year contracts. Conterra agrees, "stream-lining the rules and providing longer-term funding commitments will encourage more schools to apply for funding, encourage more service providers to participate in the program, reduce the amount of time the FCC spends dealing with

unnecessary appeals, and put E-rate funds to work building broadband connections for our nations' students." Further, Conterra supports "(1) adopting proposed connectivity metrics but not actual usage measures; (2) increasing data collection and transparency, although confidential and proprietary information must continue to be protected; (3) maintaining the ability to spread installation and construction costs over multiple years but not prioritizing special construction costs; (4) maintaining the current rule prohibiting schools and libraries from building or owning their own Wide Area Networks; (5) monitoring recurring costs but oppose setting maximum per-megabit prices; and (6) allowing support for administration buildings."

With respect to dark fiber, Conterra is not certain that treating dark fiber and its associated electronics the same as a lit service makes a logical case. If all the components of fiber delivery are individually eligible, Conterra does not believe this is functionally equivalent to a lit service.

With respect to pricing, while Conterra agrees that it is logical to find widely varying prices for same services across the country, we disagree that this justifies a per-student, per-building, or per "anything" funding cap. Conterra has built fiber, microwave and hybrid high bandwidth networks in 27 states; however, we cannot estimate with any confidence what any given network will cost to build until we have done a preliminary engineering study of each customer location and attendant service requirements. Furthermore, we often find the cost of fiber construction is affected as much by local regulation as by the terrain, which makes it virtually impossible to generalize the costs of rural versus suburban or urban construction. Many of the higher permit costs that Conterra has incurred have been in rural markets. We cannot assume that a single, "one size fits all," formula will succeed in reining costs.

Conterra agrees with Sunesys, LLC, that in some cases, technologies other than fiber, such as licensed microwave, are more cost-effective and provide acceptable bandwidth. Thus, Conterra does not feel that limiting support to fiber-based network services exclusively is in the best interests of schools and libraries. To the contrary, limiting technology choices could severely increase costs and/or limit viable service alternatives.

Conterra is in agreement with several commenters with respect to allowing true multi-year contracts, this would be a great aid in lowering costs for schools and vendors. Conterra disagrees that a three-year term limit is of benefit to the applicants or service providers. Conterra would propose that applicants be allowed to sign a multi-year contract to the limits of state law, which in most cases is five to ten years. The applicant would not have to re-apply for the funding unless there is a material change in the network, but would have to demonstrate compliance with Program rules every three years or at the mid-point of the contract, whichever is less. This would be adequate protection against fraud, waste, and abuse.

Conterra seeks more information regarding scenarios in which applicants may have filed requests for Priority 1 services rather than Priority 2 hardware because there is no Priority 2 money available, and further why this is somehow leading to inefficient use of funding. The only scenario Conterra can envision in which this may occur would be the use of cellular data plans to substitute for Wi-Fi LANs. While Conterra would agree that would be inefficient, it would seem the more logical solution would be to make campus-wide or even off-campus Wi-Fi provision a Priority 1 service. ‘Small cell’ technology and other advances are making this a more cost-effective solution, as will the FCC’s ‘whitespace’ initiative when it reaches the market.

Conterra differs from several commenters on the subject of bulk-buying, consortium buying and state contract vehicles. Conterra fully supports the targeted consortia using their aggregated purchasing power to enable 21<sup>st</sup> century telecommunications for their constituents, as long as those efforts are well designed and focused.

Conterra supplies broadband services to several consortia, such as the N.A.T.I.V.E. Joint Technical Education District located in the Arizona portion of the Navajo Nation, several Educational Service Centers in Texas, and is a sub-contractor to Verizon supporting Educational Units in Pennsylvania. The unifying feature of these customers is that each was founded on a clearly identified set of specific needs and designed to provide the most efficient solution for those needs.

Conterra's concern with less clearly focused consortia, created to somehow obtain 'better pricing,' is that without that focus the effort devolves into another variation of the state contract, which is often best compared to buying groceries at a convenience store rather than a big box retailer: you will pay more for the convenience and have less from which to choose.

## **II. CONCLUSION**

Finally, the argument that some commenters make to the effect that applicants are 'buying' private fiber networks must be refuted. Obviously, selling applicants any sort of fiber network using Priority 1 funding is a clear-cut violation of existing program rules. Conterra feels the commenters are really objecting to the fact that the availability of Priority 1 funding allows companies such as the Joint Commenters, Sunesys and Conterra to mitigate risk to their own capital and build in areas where high-bandwidth services have not been deployed by incumbents, thus introducing a competitive threat and price competition in that market.

Conterra is not ‘building private networks’ for the applicants, we are building a service delivery platform, using our own capital, that can support schools, libraries, medical facilities, state and local government, and commercial customers as well. Is this not the long-term goal of the National Broadband Plan?

Respectfully Submitted,

/s/

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